

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 1, 2005. In order to advance prosecution of this case, Applicants amend Claims 95, 98 and 105. The amendments are not considered to be narrowing or necessary for patentability. Applicants respectfully request reconsideration and favorable action in this case.

Section 102(e) Rejections

The Office Action rejects Claims 95-100 and 105 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,330,605 B1 issued to Christensen et al. (hereinafter "*Christensen*"). Applicants respectfully traverse these rejections for the reasons discussed below.

With respect to independent Claim 95, as amended, Applicants submit that *Christensen* does not disclose, teach or suggest at least "communicating a community request from a dynamic cache module to an administration module, receiving a community list from the administration module in response to the community request, the community list including a list of communities, [and] selecting one of the communities to attempt to join."

Christensen's PCC "comprises a group of processor/memory mechanisms (PMMs) that cooperately interact as a system . . . of proxy cache servers." (*Christensen*, col. 3, lines 3-6). A PMM in *Christensen* does not communicate a community request from a dynamic cache module to an administration module, but is merely "configured with a unique identifier (ID), a network address and PCC configuration software to enable participation in the clustering process." (*Christensen*, col. 6, lines 18-21). "[T]he PMM 'listens' for a mechanism notifying the PMM that it is a member of a PCC 300." (*Id.*, at col. 6, lines 24-25). A PMM also does not receive a community list (*i.e.*, a PCC list) including a list of communities (*i.e.*, PCCs), and selecting one of the communities to attempt to join. Although *Christensen* arguably has more than one PCC, there is certainly no PCC list from which a PMM can select one to attempt to join. A PMM is more of a passive component that is assigned a PCC by a PCC coordinator. (*See, e.g., Christensen*, col. 6, lines 37-40). For at least this reason, *Christensen* does not anticipate amended independent Claim 95. Reconsideration and favorable action are respectfully requested.

With respect to independent Claims 98 and 105, as amended, Applicants submit that independent Claims 98 and 105 are allowable for reasons analogous to those above in

conjunction with amended Claim 95. Reconsideration and favorable action are respectfully requested.

Dependent Claims 96-97 depend from independent Claim 95 and dependent Claims 99-100 depend from independent Claim 98, and are also not anticipated by *Christensen* because they include the limitations of their respective base claim, which are shown above to be allowable, as well as additional limitations that further distinguish *Christensen*. Therefore, Applicants respectfully request that the rejection of Claims 96-97 and 99-100 be withdrawn.

Section 103(a) Rejections

The Office Action rejects Claims 1-30 and 101 under 35 U.S.C. 103(a) as being unpatentable over *Christensen* in view of U.S. Patent No. 6,785,704 B1 issued to McCanne (hereinafter “*McCanne*”). Applicants respectfully traverse these rejections for the reasons discussed below.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143.

First, Applicants respectfully submit that there is no suggestion or motivation, in either *Christensen* or *McCanne* or in the knowledge generally available to one of ordinary skill in the art, to combine *Christensen* and *McCanne* as proposed by the Examiner. Applicants note that the Examiner has not provided the required evidence of a suggestion to combine *Christensen* and *McCanne*. As mandated by the Federal Circuit, “[t]he factual inquiry whether to [modify] references must be thorough and searching.” *In re Sang-Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002). Any “conclusory statements . . . do not adequately address the issue of motivation to combine.” *Id.* The Examiner simply states at page 4 of the Office Action that “[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of *McCanne* within the system of *Christensen* by implementing providing a cache community on a first side of a point of presence within the dynamic distributed data caching method and a system because *McCanne* teaches by servicing requests locally, improves ‘response time’, reduces ‘wide-area bandwidth consumption’, and relaxes ‘load on the production server’ (see col.9, lines 61-

64).” The statement merely presents perceived advantages of the combination. In fact, most proxy caching systems have these general advantages. Thus, there is no “factual inquiry” in the Examiner’s statement. The Examiner has not compared and analyzed the two systems of *Christensen* and *McCanne* to come up with technical reasoning as to why one skilled in the relevant art would be motivated to combine these two references. Therefore, this reasoning surely cannot be said to be “thorough and searching.”

Furthermore, Applicants submit that one having ordinary skill in the art would not be motivated to combine *Christensen* and *McCanne* because *Christensen* is directed towards a reverse proxy environment, while *McCanne* is directed towards a forward proxy environment. As indicated at col. 1, lines 34-37 of *Christensen*, “[a] proxy cache server (“proxy”) may be used to accelerate client access to the Internet (“forward proxy”) or to accelerate Internet access to a web server (“reverse proxy”).” Forward proxy environments and reverse proxy environments require different hardware and/or software to carry out their functions.

Therefore, Applicants respectfully submit that there is no suggestion or motivation, in either *Christensen* or *McCanne* or in the knowledge generally available to one of ordinary skill in the art, to combine *Christensen* and *McCanne*. For at least this reason, a *prima facie* case of obviousness has not been established, and the *Christensen-McCanne* combination does not render Claim 1 obvious. Reconsideration and favorable action are respectfully requested.

With respect to independent Claims 16 and 101, Applicants submit that independent Claims 16 and 101 are allowable for reasons analogous to those above in conjunction with Claim 1. Reconsideration and favorable action are respectfully requested.

Dependent Claims 2-15 depend from independent Claim 1 and dependent Claims 17-30 depend from independent Claim 16, and are also not rendered obvious by the *Christensen-McCanne* combination because they include the limitations of their respective base claim, which are shown above to be allowable, as well as additional limitations that further distinguish *Christensen* and *McCanne*. Therefore, Applicants respectfully request that the rejection of Claims 2-15 and 17-30 be withdrawn.

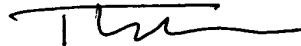
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

No fees are believed to be due, however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
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